

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA ) Greensboro, North Carolina  
vs. ) June 10, 2014  
BRIAN DAVID HILL, ) 10:04 a.m.  
Defendant. )  
 )  
 ) Case No. 1:13CR435-1  
 )

TRANSCRIPT OF PLEA  
BEFORE THE HONORABLE WILLIAM L. OSTEEN, JR.  
UNITED STATES DISTRICT JUDGE

## APPEARANCES:

For the Government: ANAND P. RAMASWAMY, AUSA  
Office of the U.S. Attorney  
101 S. Edgeworth Street, 4th Floor  
Greensboro, North Carolina 27401

For the Defendant: ERIC D. PLACKE, AFPD  
Office of the Federal Public Defender  
301 N. Elm Street, Suite 410  
Greensboro, North Carolina 27401

Court Reporter: Joseph B. Armstrong, RMR, FCRR  
324 W. Market, Room 101  
Greensboro, NC 27401

Proceedings reported by stenotype reporter.  
Transcript produced by Computer-Aided Transcription.

## PROCEEDINGS

(At 10:04 a.m., proceedings commenced.)

(Defendant present.)

THE COURT: All right. Good morning, Mr. Ramaswamy.

MR. RAMASWAMY: Good morning, Your Honor. The Government would call -- I believe this is more of a status conference -- United States versus Brian David Hill in 1:13CR435-1, represented by Mr. Placke.

THE COURT: All right. Good morning, Mr. Placke.

10 MR. PLACKE: Good morning, Your Honor. Your Honor,  
11 if I may, I think I can assist here. Mr. Hill has decided --  
12 he's had a chance to speak with his family, and he and I have  
13 had a chance to speak some -- has decided to enter a plea of  
14 guilty in accordance with the offer, I believe a copy of which  
15 has been supplied to the Court. Our first opportunity to  
16 review this particular plea offer was yesterday; and although  
17 that was conducted at a couple of different places, it was also  
18 interrupted by some other circumstances. We've been continuing  
19 that this morning. If we could have perhaps a recess of 15  
20 minutes, I think we can be all set, Your Honor.

21                   THE COURT: All right. Well, I understand that  
22 completely. It's not been so long ago that I forgot what it  
23 was like to have clients moved from one facility to another  
24 unexpectedly, so I'll be happy to give you that. Why don't we  
25 just say we'll stand in recess until 10:30. I'll come back in

1 then; and if for whatever reason you need additional time, I'm  
2 happy to provide it to you.

3 We'll be on -- we'll just stand at ease until 10:30.

4 (At 10:05 a.m., break taken.)

5 (At 10:34 a.m., break concluded.)

6 THE COURT: All right. You may call the next case.

7 MR. RAMASWAMY: Your Honor, if we can return to the  
8 matter of Brian David Hill in 1:13CR435-1. He's represented by  
9 Mr. Placke.

10 THE COURT: All right. Mr. Placke, give me just one  
11 second. All right. I meant to check the guidelines, but a  
12 portion of this plea agreement is made under -- I think it  
13 was 3 -- wait a minute. Oh, 11(c)(1)(B). So it's a nonbinding  
14 recommendation at this point in time.

15 MR. PLACKE: Exactly.

16 THE COURT: All right. Mr. Placke, are you and  
17 Mr. Hill ready to proceed in this matter?

18 MR. PLACKE: Yes, we are, Your Honor.

19 THE COURT: Have you had enough time to review the  
20 Government's file in this case?

21 MR. PLACKE: I have.

22 THE COURT: And do you believe Mr. Hill understands  
23 the charge and the nature of this hearing?

24 MR. PLACKE: I do.

25 THE COURT: And is it his intention to enter a plea

1 of guilty here today?

2 MR. PLACKE: It is, Your Honor.

3 THE COURT: And has anyone made any threats or  
4 promises to Mr. Hill to induce his plea of guilty other than  
5 those contained in the plea agreement?

6 MR. PLACKE: No, Your Honor.

7 THE COURT: And is it your recommendation that I  
8 accept his plea of guilty?

9 MR. PLACKE: It is.

10 THE COURT: Mr. Hill, I'm going to ask Ms. Welch to  
11 administer the oath to you at this time.

12 THE DEFENDANT: All right.

13 (Defendant sworn by the clerk.)

14 THE COURT: Thank you. Mr. Hill, you are now under  
15 oath; and because you're under oath, if you answer any of my  
16 questions falsely, those answers may later be used against you  
17 in a separate prosecution for perjury or making a false  
18 statement. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And would you state your full name,  
21 please, sir.

22 THE DEFENDANT: Brian David Hill.

23 THE COURT: And how old are you, Mr. Hill?

24 THE DEFENDANT: Twenty-four years old.

25 THE COURT: How far did you go in school?

1                   THE DEFENDANT: High school.

2                   THE COURT: And is that some high school or graduated  
3 from high school?

4                   THE DEFENDANT: It was home school.

5                   THE COURT: Home school. Are you able to read and  
6 understand the indictment and the plea agreement in this case?

7                   THE DEFENDANT: Yes, sir.

8                   THE COURT: And have you been treated recently for  
9 any mental illness or addiction to narcotic drugs? And let me  
10 say during the course of this colloquy, if I ask you any  
11 questions that you don't understand, please stop me, and I'll  
12 either rephrase it, or I'll give you a minute to talk to  
13 Mr. Placke if you want to.

14                  THE DEFENDANT: All right. Thank you, sir.

15                  THE COURT: You may talk to Mr. Placke.

16                  (Discussion between defendant and Mr. Placke.)

17                  THE COURT: All right. I'll ask the question again.  
18 Have you been treated recently for any mental illness or  
19 addiction to narcotic drugs?

20                  THE DEFENDANT: Mild autism.

21                  THE COURT: And what kind of treatment or what  
22 procedures are you involved in at this point with respect to  
23 that?

24                  THE DEFENDANT: Basically, I take Prozac and Geodon.

25                  THE COURT: All right. And when's the last time you

1 took those medications?

2 THE DEFENDANT: Orange County Jail.

3 THE COURT: All right. Was that yesterday, today?

4 Do you remember when?

5 THE DEFENDANT: I think --

6 THE COURT: Just your best recollection is fine.

7 THE DEFENDANT: All right. Basically, I think it was  
8 probably Sunday I took the Geodon, and Monday I took the Prozac  
9 but not the Geodon.

10 THE COURT: All right. Now, Mr. Hill, is there  
11 anything about the mild autism you described or the medications  
12 that you're taking that affects your ability to hear me or  
13 understand my questions or this proceeding? Did you understand  
14 that question?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Anything about your -- the  
17 mild autism or the treatment or the medications that impairs or  
18 affects your ability to hear me and understand this proceeding?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: It does affect your ability?

21 THE DEFENDANT: No, no, sir.

22 THE COURT: Let me ask the question this way. With  
23 the understanding that you're going through this treatment and  
24 taking those medications, are you able to hear me and  
25 understand my questions here today?

1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: And are you able to understand the nature  
3 of this proceeding?

4                   THE DEFENDANT: Yes, sir.

5                   THE COURT: All right. And other than the two  
6 medications that you just described, are you under the  
7 influence of any drug, alcoholic beverage, or other  
8 medications?

9                   THE DEFENDANT: Insulin.

10                  THE COURT: Okay. Is there anything about that  
11 Insulin that affects your ability to understand me or follow  
12 this proceeding?

13                  THE DEFENDANT: I don't think so, sir.

14                  THE COURT: All right. Mr. Placke, I will ask you.  
15 Listening to Mr. Hill so far, he seems to me to be  
16 appropriately responsive, and I don't find anything about the  
17 conditions or medications that suggest we cannot proceed. Do  
18 you agree with that?

19                  MR. PLACKE: I agree with that, Your Honor. There  
20 have been two occasions, one was yesterday, and one was several  
21 months ago, when the particular time of day and relationship to  
22 meal time was such that we were talking, talking, and then  
23 Mr. Hill's blood sugar, which fluctuates rapidly in his case,  
24 had dropped some, and his affect changed. I could tell he  
25 wasn't feeling well, and we had to stop and have the jailers

1 provide him some food. But those have been the only times when  
2 there has been impact on our ability to communicate.

3 THE COURT: All right. Mr. Hill, when your blood  
4 sugar drops, can you kind of feel that coming on?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. If at any time in this  
7 proceeding something like that occurs, just let me know, and  
8 we'll stop; and whatever you need, food or Insulin, we'll take  
9 care of that, and then we'll continue when you're able. Do you  
10 understand that?

11 THE DEFENDANT: Yes. Thank you, sir.

12 THE COURT: All right. Mr. Hill, have you received a  
13 copy of the indictment and reviewed it with Mr. Placke?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And do you understand the indictment and  
16 the charge against you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And have you fully discussed the charge  
19 in the indictment and the case in general with Mr. Placke?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And have you and Mr. Placke discussed any  
22 possible defenses you might have to the charge?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: What I mean by that is have you talked to  
25 Mr. Placke about everything you think might be helpful to you

1 in defending this case?

2 THE DEFENDANT: I believe so, sir.

3 THE COURT: All right. And are you fully satisfied  
4 with the services of Mr. Placke and his counsel,  
5 representation, and advice?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, I understand there's a plea  
8 agreement in your case, Mr. Hill, and one has been filed that  
9 on page 7 appears the signature of Brian D. Hill. Is that your  
10 signature?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And, Mr. Hill, before I talk to  
13 Mr. Placke, I am going to address directly the fact -- and I'm  
14 not sure when the letters were written, but at least one letter  
15 was written after your hearing before Judge Tilley in which a  
16 number of motions were denied. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: I have reviewed that letter, and the  
19 entry of a plea of guilty pursuant to this plea agreement would  
20 result in my not having any kind of hearing or further inquiry  
21 as to that letter. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: In other words, a plea of guilty would  
24 render moot those complaints because we're addressing them  
25 through this colloquy, my questions and answers. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And having been advised of that, is it  
4 your request that I proceed ahead with this plea of guilty  
5 hearing? Do you want to go forward with this?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Mr. Placke, as I understand  
8 Mr. Hill's plea agreement in this case, he has agreed to enter  
9 a voluntary plea of guilty to the offense charged in the  
10 indictment. In exchange for his plea of guilty, the Government  
11 has agreed to recommend Mr. Hill for a reduction in his offense  
12 level pursuant to Section 3E1.1(b) of the sentencing guidelines  
13 if he otherwise qualifies. Furthermore, the United States has  
14 agreed not to oppose Mr. Hill's request for a departure  
15 and/or -- well, specifically a departure, but either a  
16 departure or a variance under 5H1.3 and four of the sentencing  
17 guidelines. Further, the Government has agreed not to oppose  
18 Mr. Hill's request that a sentence of time served constitutes  
19 an appropriate active sentence component to any sentence  
20 imposed in the case. Is that your understanding of Mr. Hill's  
21 plea agreement.

22 MR. PLACKE: Yes, it is, Your Honor.

23 THE COURT: And does this plea agreement contain all  
24 the terms and conditions of Mr. Hill's agreement with the  
25 United States?

1 MR. PLACKE: Yes, it does.

2 THE COURT: Mr. Hill, is my summary of the plea  
3 agreement the same as your understanding of the terms of your  
4 plea?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And have you had enough time to review  
7 the plea agreement and discuss it with Mr. Placke?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And do you understand all the terms of  
10 your plea agreement?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And does this plea agreement represent  
13 the entire agreement between you and the United States in this  
14 case?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Mr. Hill, in the agreement as  
17 I just summarized it, there are two provisions I want to talk  
18 to you about specifically. One is the provision in which the  
19 United States has agreed to make a recommendation to the Court  
20 for a reduction in your offense level pursuant to Section  
21 3E1.1(b) of the sentencing guidelines if you otherwise qualify  
22 for that recommendation. That is only a recommendation, and it  
23 is not binding on this Court. Do you understand that I can  
24 refuse to follow the recommendation as contained in the plea  
25 agreement?

1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: And do you understand that I can impose a  
3 sentence that is more severe than you may anticipate based on  
4 that recommendation?

5                   THE DEFENDANT: Yes, sir.

6                   THE COURT: And do you understand that if I should  
7 choose not to follow the Government's recommendation, that fact  
8 alone is not a reason I would allow you to withdraw this guilty  
9 plea?

10                  THE DEFENDANT: Yes, sir.

11                  THE COURT: Now, the second provision in your plea  
12 agreement, Mr. Hill, relates to the Government's agreement to  
13 not oppose a request for a departure under Section 5H --  
14 Sections 5H1.3 and 5H1.4 of the sentencing guidelines and the  
15 Government's agreement not to oppose or object to a sentence of  
16 time served at the sentencing hearing. Now, there again, that  
17 is only a recommendation, and it is not binding on this Court.  
18 Do you understand that?

19                  THE DEFENDANT: Yes, sir.

20                  THE COURT: And I will tell you, Mr. Hill, even with  
21 this statement that I'm about to make, I've had enough time to  
22 review the factual basis in this case, and I've also had the  
23 opportunity to review the evaluation as well as some of your  
24 communications with the Court. At this point in time I would  
25 tell you that I am inclined to accept those recommendations or

1 accept the plea agreement with those recommendations from the  
2 Government. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: But even saying that now, Mr. Hill,  
5 ultimately my final determination as to whether or not to  
6 accept those recommendations will depend upon the presentence  
7 report, we'll talk more about that later, and any additional  
8 information I might get. So I say that to illustrate this  
9 point, that is, the Government's agreed to make a  
10 recommendation; Mr. Placke, it appears at this point, has a  
11 very strong argument; but, ultimately, the final decision as to  
12 whether or not I will accept that recommendation will be  
13 conditional upon my review of the presentence report at a later  
14 time. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, if -- having said all that, if at  
17 that time I should for some reason reject the recommendation  
18 and fashion a different sentence other than what's called for  
19 in the plea agreement, then under those circumstances that fact  
20 alone is not a reason I would allow you to withdraw this guilty  
21 plea. Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And I understand that can be a little  
24 intimidating or frightening to hear that at this point,  
25 Mr. Hill, but this is a very serious hearing that we're having

1 here today, and you're making a substantial decision as to how  
2 to resolve this case, and I want to make sure you understand  
3 all of the potential consequences of it. If it works out the  
4 way that everybody described, then that's good, but there are  
5 potential consequences you need to make sure you understand.  
6 Do you understand all that?

7                   THE DEFENDANT: Yes, sir.

8                   THE COURT: Anything you want to talk to Mr. Placke  
9 about further after hearing my comments?

10                  THE DEFENDANT: Um-um.

11                  THE COURT: All right. Has anyone made any threats  
12 or promises to you other than those contained in the plea  
13 agreement in an effort to get you to plead guilty?

14                  THE DEFENDANT: No, sir.

15                  THE COURT: And has anyone in any way attempted to  
16 force you to plead guilty against your wishes?

17                  THE DEFENDANT: No, sir.

18                  THE COURT: Now, in this case, Mr. Hill, you are  
19 pleading guilty to a felony offense. If your plea of guilty is  
20 accepted by this Court, you will be adjudicated guilty of that  
21 offense, and, as a result, you will lose certain valuable civil  
22 rights, including the right to vote, the right to hold public  
23 office, the right to serve on a jury, and the right to possess  
24 any type of firearm. Do you understand these consequences of  
25 your guilty plea?

1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: Now, upon your plea of guilty, there are  
3 certain statutory penalties that apply -- or upon conviction, I  
4 should say. In this case you are seeking to enter a plea of  
5 guilty to violation of 18 USC Section 2252A(a)(5)(B). The  
6 statutory penalties that apply upon conviction include all of  
7 the following:

8                   A term of imprisonment of not more than 10 years.

9                   A period of supervised release of not less than five  
10 years or more than life.

11                  A fine of not more than \$250,000 or twice the gross  
12 gain or loss caused by the violation, whichever is greater.

13                  A special assessment of \$100 is mandatory.

14                  I can order forfeiture of a number of the items, such  
15 as computer and images and other things seized as a result of  
16 this activity, and I also have authority to order restitution  
17 to any victims of the crime.

18                  Do you understand those statutory penalties that  
19 apply?

20                  THE DEFENDANT: Yes, sir.

21                  THE COURT: Now, in advising you of those statutory  
22 penalties, I mentioned supervised release. Supervised release  
23 means that following any term of imprisonment you'll be placed  
24 on a period of supervision by this Court. During that time, if  
25 you violate any of the conditions of that supervised release,

1 you can be given additional time in prison up to the full term  
2 of supervised release imposed. The Court could also impose an  
3 additional term of imprisonment and then reimpose supervised  
4 release in response to a violation. Do you understand  
5 supervised release?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand all of the possible  
8 penalties and consequences of this plea of guilty?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, up to this point, I've described the  
11 statutory penalties that apply. Ultimately, it will be up to  
12 this Court to determine a sentence which is sufficient but not  
13 greater than necessary. The process of determining that  
14 sentence starts by calculating an advisory sentencing guideline  
15 range based on sentencing guidelines created by the Sentencing  
16 Commission. I cannot determine the applicable sentencing  
17 guideline range for your case until after a presentence report  
18 is prepared. That report will contain a guideline calculation  
19 prepared by the probation officer. Once that report is  
20 prepared, you'll have the opportunity to review that report  
21 with Mr. Placke and file any objections or challenge any facts  
22 or guideline calculations as recommended by the probation  
23 officer.

24 Do you generally understand that process I've just  
25 described?

1                   THE DEFENDANT: Yes, sir.

2                   THE COURT: Now, Mr. Placke may have discussed the  
3 guidelines with you, and here I am certain he has discussed the  
4 guidelines with you because your plea agreement has a guideline  
5 provision recommendation in it. However, no one -- in spite of  
6 what Mr. Placke may have told you, no one knows what that  
7 guideline range or your sentence might be until after that  
8 presentence report is prepared, and I have had the opportunity  
9 to review that report as well as the -- any objections you or  
10 the United States might file. As a result, do you understand  
11 that your guideline range and your sentence may be different  
12 from any estimate Mr. Placke may have provided to you?

13                  THE DEFENDANT: Yes, sir.

14                  THE COURT: And do you understand that I can use a  
15 guideline range or impose a sentence that is more severe than  
16 any recommended to -- than any -- excuse me -- estimated to you  
17 by your attorney or recommended by the Government? Do you  
18 understand that?

19                  THE DEFENDANT: Yes, sir.

20                  THE COURT: All right. Are you doing okay? You look  
21 a little -- are you doing all right?

22                  THE DEFENDANT: Yeah. Yes, sir.

23                  THE COURT: All right. If you need to sit down, just  
24 let me know that, and we'll be fine.

25                  Now, once your guideline range has been determined,

1 it is an advisory sentencing guideline range. To determine a  
2 sentence, I am required to consider that advisory sentencing  
3 guideline range, any applicable departures to that range, and  
4 then all the other factors set out under 18 USC Section 3553.  
5 Do you generally understand the process of determining a  
6 sentence?

7                   THE DEFENDANT: Yes, sir.

8                   THE COURT: As a result of that process, do you also  
9 understand that this Court has the authority to impose a  
10 sentence that is more severe than that called for by the  
11 applicable advisory sentencing guideline range?

12                  THE DEFENDANT: Yes, sir.

13                  THE COURT: Do you understand that if your sentence  
14 is more severe than that called for by the guidelines, that  
15 fact alone is not a reason I would allow you to withdraw this  
16 guilty plea?

17                  THE DEFENDANT: Yes, sir.

18                  THE COURT: Do you understand that parole has been  
19 abolished, and, if you're sentenced to prison, you will not be  
20 released on parole?

21                  THE DEFENDANT: Yes, sir.

22                  THE COURT: And do you understand that both you and  
23 the United States has the right to appeal any sentence I may  
24 impose in your case? Do you understand that?

25                  THE DEFENDANT: Yes, sir.

1                   THE COURT: All right. I think it's clear. You  
2 certainly, Mr. Hill, seem to understand it, but just a moment  
3 ago when I talked about departures from the guideline range,  
4 those two provisions in your plea agreement, 5H1.3 and 4, I  
5 think, are actually formally known as departures, and the final  
6 determination as to whether to grant a departure downward is  
7 one that I will make at the time of sentencing after reviewing  
8 your presentence report. Do you understand that?

9                   THE DEFENDANT: Yes, sir.

10                  THE COURT: All right. Now, in this case, Mr. Hill,  
11 because you've been charged with a felony, you have certain  
12 constitutional rights, and by pleading guilty you will waive  
13 many of these constitutional rights.

14                  You have the right to plead not guilty.

15                  You have the right to a trial by jury, which means  
16 you have the right to have your guilt or innocence determined  
17 by a jury.

18                  At any trial you are presumed innocent. The United  
19 States is required to prove your guilt of the crime charged  
20 beyond a reasonable doubt, which means the United States is  
21 required to prove each and every element of the crime charged  
22 beyond a reasonable doubt before you can be found guilty.

23                  You have the right to the assistance of counsel at  
24 all stages of this proceeding, including a trial; and if you  
25 cannot afford an attorney, one will be appointed for you.

1           You have the right to see and hear all of the  
2 witnesses called to testify. You have the right to confront  
3 those witnesses, and you or your attorney has the right to  
4 cross-examine each of those witnesses.

5           You have the right to issue subpoenas and to compel  
6 the attendance of witnesses to testify in your defense; and if  
7 you cannot afford the cost of those subpoenas, the Government  
8 can be required to pay those costs for you.

9           You have the right to testify in your own defense if  
10 you choose to, but no one can force you to testify, that is,  
11 you have the right to refuse to testify; and if you choose not  
12 to testify, your refusal to testify cannot be used against you  
13 in any way.

14           You have the right to present evidence, but you're  
15 not required to present any evidence at all. If you choose not  
16 to present any evidence at all, that fact cannot be used  
17 against you.

18           Do you understand each of these rights?

19           THE DEFENDANT: Yes, sir.

20           THE COURT: And do you further understand that by  
21 entering this plea of guilty, once your plea is accepted by  
22 this Court, there will be no trial, and you will have given up  
23 your right to a trial as well as these other rights associated  
24 with a trial?

25           THE DEFENDANT: Yes, sir.

1                   THE COURT: All right. In this case, Mr. Hill, as I  
2 mentioned earlier, you're seeking to enter a plea of guilty to  
3 a violation of 18 USC Section 2252A. The elements of that  
4 offense, that is, the facts the United States would be required  
5 to prove beyond a reasonable doubt at any trial, include all of  
6 the following:

7                   One, that you knowingly possessed certain items.

8                   Two, those items included any magazine, periodical,  
9 film, videotape, computer disk, or other material that  
10 contained images of child pornography, as that term is defined  
11 by statute.

12                  And, three, the material you possessed with intent to  
13 view had been mailed, shipped, or transported in interstate or  
14 foreign commerce by any means, including a computer, or have  
15 been produced using materials that had been mailed, shipped, or  
16 transported in interstate or foreign commerce by any means,  
17 including computer.

18                  I'm sure Mr. Placke has been over this with you a  
19 time or two, but do you understand the elements of the offense  
20 charged in the indictment?

21                  THE DEFENDANT: Yes, sir.

22                  THE COURT: And do you understand that by pleading  
23 guilty this to offense, you are admitting to the elements of  
24 the offense as those facts are described in the indictment?

25                  THE DEFENDANT: Yes, sir.

1                   THE COURT: Do you have any questions about anything  
2 we've been over before I call upon you to enter your plea in  
3 this case? Any questions at all for me or Mr. Placke?

4                   THE DEFENDANT: No, sir.

5                   THE COURT: Then in Case No. 1:13CR435-1, United  
6 States versus Brian David Hill, how do you plead to the offense  
7 charged in the indictment?

8                   THE DEFENDANT: Guilty, Your Honor.

9                   THE COURT: And are you pleading guilty because you  
10 are, in fact, guilty?

11                  THE DEFENDANT: Yes, sir.

12                  THE COURT: Then it is the finding of this Court in  
13 Case No. 1:13CR435-1 that Mr. Hill is fully competent and  
14 capable of entering an informed plea. The Court further finds  
15 that Mr. Hill is aware of the nature of the charges and the  
16 consequences of his plea, and his plea of guilty is a knowing  
17 and voluntary plea.

18                  Mr. Placke, a written factual basis has been filed in  
19 this case. Have you received a copy of the factual basis and  
20 reviewed it with Mr. Hill?

21                  MR. PLACKE: Yes, Your Honor.

22                  THE COURT: Are there any objections?

23                  MR. PLACKE: No, Your Honor.

24                  THE COURT: Mr. Hill, have you reviewed the factual  
25 basis with Mr. Placke?

1                   THE DEFENDANT: Yes, Your Honor.

2                   THE COURT: And are there any objections that -- or  
3 do you agree with Mr. Placke, that is, you generally agree with  
4 the facts described in the factual basis?

5                   THE DEFENDANT: Yes, sir.

6                   THE COURT: All right. Then I will find in  
7 Mr. Hill's case that his plea of guilty is supported by an  
8 independent basis in fact containing each of the essential  
9 elements of the offense. His plea is, therefore, accepted, and  
10 Mr. Hill is now adjudged guilty of the offense charged in the  
11 Bill of Indictment.

12                  Mr. Hill, a written factual basis -- or excuse me --  
13 a written presentence report will be prepared in your case.  
14 You will be asked to provide information for that report and to  
15 submit to an interview. Mr. Placke may be present with you and  
16 advise you at all stages of this process if you so desire.

17                  Once that report is prepared, you'll be given the  
18 opportunity to review that report with Mr. Placke and file any  
19 objections that you might have. If those objections are not  
20 resolved prior to sentencing, I will resolve those objections  
21 at the sentencing hearing. Both you and Mr. Placke will have  
22 the opportunity to speak on your behalf at the sentencing  
23 hearing.

24                  I'll order the preparation of a presentence report.  
25 I'm going to set sentencing at this point in time for Tuesday,

1 September 30, 2014, at 9:30 a.m. in Greensboro, Courtroom 1.  
2 I'm going to ask Ms. Welch to contact probation to see if we  
3 can move this presentence report along a little bit faster.  
4 Mr. Hill has been in custody locally and at the BOP for the  
5 better part of a year now?

6 MR. PLACKE: Since December, Your Honor.

7 THE COURT: Since December, six months.

8 MR. PLACKE: Your Honor, one other matter that may  
9 affect the scheduling to some degree. I've discussed with  
10 Mr. Hill the psychosexual evaluation the Court typically  
11 inquires about; and consistent with my advice, he's willing to  
12 do that. I know sometimes that affects scheduling of the  
13 sentencing hearing.

14 THE COURT: Yeah, it sometimes extends it out. In  
15 light of the recommendation, I would like to get a look at the  
16 presentence report sooner rather than later. I'm not sure that  
17 anybody's purposes are served all that well if I adopt the  
18 recommendation that Mr. Hill remains in local lockup for  
19 another several months. Mr. Ramaswamy, do you have any  
20 thoughts about that one way or another?

21 MR. RAMASWAMY: I'll leave it in the Court's  
22 discretion, Your Honor.

23 THE COURT: I'll order -- thank you. Yes, sir?

24 MR. PLACKE: The only thing I would add, I would  
25 expect that that evaluation would be done back at Butner which

1 provides, you know, better or more comprehensive care than a  
2 local facility can.

3 THE COURT: Are they sending some folks to Butner for  
4 that evaluation now?

5 MR. PLACKE: They are, Your Honor.

6 MR. RAMASWAMY: My understanding on the psychosexual  
7 evaluation, and I could be wrong, I'll have to hear from  
8 probation, is that Dr. Hirsch is the only approved evaluator,  
9 and it's not necessarily in custody. I think it's more often  
10 seen out of custody than in.

11 THE COURT: I'm going to -- I'll order a psychosexual  
12 evaluation, but I'm going to leave it -- ordinarily, I'd put  
13 the sentencing date out an extra 30 days or so, but I'm going  
14 to leave the sentencing where it is and ask that Probation go  
15 ahead and disclose the presentence report 35 days -- or go  
16 ahead and disclose the presentence report timely regardless of  
17 whether the psychosexual evaluation is completed. I want a  
18 little more detailed look at some of the sentencing factors  
19 sooner rather than later. Did you follow that, Ms. Welch?

20 THE CLERK: Yes, sir.

21 THE COURT: All right. If you'll let Probation know  
22 that.

23 Mr. Hill, let me leave you with one other thought.  
24 It seems to me after talking to you today and hearing your  
25 responses that for the most part some of your concerns have --

1 and fears have been allayed with respect to both the process as  
2 well as counsel in the case. I don't mind telling you that you  
3 are represented by very experienced and capable counsel in this  
4 court in a wide variety of matters, so in many respects you're  
5 very -- we'd expect that out of all lawyers with the public  
6 defender and Criminal Justice Act panel attorneys, but you've  
7 got a good one.

8 Now, you need to give some thought about mailing  
9 items directly to the Court because they can hurt you -- they  
10 can hurt this -- they can hurt you in this process in very  
11 unexpected ways. For example, I understand completely your  
12 concerns about various pieces of the process and, most notably,  
13 registration as a sex offender and various other things. But  
14 if you say the wrong thing, and that gets communicated to me,  
15 it becomes a factor I have to take into consideration in  
16 fashioning a sentence later.

17 So let me strongly urge you that to the extent you  
18 want to send letters, give them to Mr. Placke for his review  
19 first rather than sending them directly to the Court, and I can  
20 assure you -- as a matter of fact, I'll direct Mr. Placke to do  
21 it if that makes you feel better. But to the extent the  
22 information needs to be conveyed to the Court, Mr. Placke will  
23 convey that information to me. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Part of what a lawyer does, and I'm sure

1 you understand this, is stand as a buffer between client's  
2 statements that may be made without fully realizing the import  
3 of those statements and -- between the client and the Court in  
4 those circumstances. So I want to encourage you going forward  
5 to the extent frustrations may develop to send that  
6 communication to Mr. Placke first, and then you all decide  
7 together whether or not that's the kind of thing that should  
8 come to the Court. Do you disagree with that, Mr. Placke?

9 MR. PLACKE: No, Your Honor.

10 THE COURT: All right. Well, we'll move forward and  
11 see if we can move on to sentencing as quickly as possible in  
12 this matter. Anything further at this time? Mr. Placke?

13 MR. PLACKE: No, Your Honor.

14 THE COURT: Mr. Ramaswamy?

15 MR. RAMASWAMY: No, Your Honor.

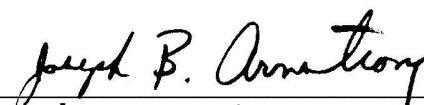
16 THE COURT: All right. Thank you, Mr. Hill. We'll  
17 stand adjourned.

18 (At 11:08 a.m., proceedings adjourned.)

19 \* \* \* \* \*

20 C E R T I F I C A T E

21 I certify that the foregoing is a correct transcript  
from the proceedings in the above-entitled matter.

23  
24 Date: 06/24/2015   
Joseph B. Armstrong, RMR, FCRR  
United States Court Reporter  
324 W. Market Street  
Greensboro, NC 27401  
25